

Appl. No. 09/848,885
Amendment and/or Response
Reply to Office action of 20 December 2004

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REMARKS / DISCUSSION OF ISSUES

Claims 1-23 are pending in the application.

The Office action rejects claims 1-17 under 35 U.S.C. 112, second paragraph, for use of the term "substantial majority" in claim 1. The applicants respectfully traverse this rejection. The applicants note that the term "substantial" is often used in patent claims, and its meaning is understood by one of ordinary skill in the art, consistent with Webster's definition: "significantly large". However, in the interest of advancing prosecution in this case, the term has been deleted. The claims are not narrowed in scope, and no new matter is added.

The Office action rejects claim 20 under 35 U.S.C. 112, second paragraph, for a lack of a proper antecedent basis. The applicants thank the Examiner for this attention to detail. Claim 20 is appropriately amended herein. The intended scope of claim 20 is unchanged.

The Office action rejects claims 1-7, 18, and 20-23 under 35 U.S.C. 102(c) over Serret-Avila et al. (USP 6,785,815, hereinafter Serret-Avila). The applicants respectfully traverse this rejection.

The Examiner's attention is requested to MPEP 2131, wherein it is stated:

"A claim is anticipated only if *each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The *identical invention* must be shown in as *complete detail* as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 1, upon which claims 2-17 depend, claims a system that includes a verifier that provides a verification of a presence of the data set, via a first verification of a presence of a select subset of a plurality of data items comprising the data set, and a second verification of a receipt of a given proportion of the plurality of data items.

Claim 18, upon which claims 19-23 depend, claims a method of controlling rendering of data items of a data set, that includes conducting a first test for a presence of an entirety of the data set based on a receipt of randomly selected sections of the data set, and conducting a second test for the presence of the entirety of the data set based on a receipt of a quantity of different sections of the data set

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Serret-Avila does not teach a verification based on the presence of a select subset of data items, and does not teach a verification based on receipt of a given proportion of the data items.

The Office action refers to Serret-Avila's FIGs. 9A-9B for teaching verifying the presence of a select subset of data items in a data set, and also for teaching randomly selecting the select subset. The applicants respectfully disagree with this characterization of Serret-Avila. Serret-Avila's FIG. 9A teaches the creation of a strong watermark by inserting a keyed watermark into a subset of mark-holder locations in the data set (Serret-Avila, column 19, line 53 through column 20, line 24). FIG. 9A is silent with regard to verifying the presence of a subset of data items in the data set, and is silent with regard to randomly selecting such a subset of data items. FIG. 9B teaches a test routine for empirically "tuning" the strong watermarking process of FIG. 9A to assure that its presence will be detected after a watermark attack (Serret-Avila column 20, lines 24-46). FIG. 9B is silent with regard to verifying the presence of a subset of data items in the data set, and is silent with regard to randomly selecting such a subset of data items.

The Office action refers to Serret-Avila's FIGs. 10-11 for teaching verifying receipt of a given proportion of the data items forming the data set. The applicants respectfully disagree with this characterization of Serret-Avila. The applicants acknowledge that FIG. 10 teaches encoding a watermark in each data item of a data set. The applicants respectfully note, however, that Serret-Avila's FIG. 11 does not teach verifying the presence of each of these data items, and in particular does not detect the absence of data items, as would occur if a portion of the data items were removed ("ripped") from a data set and processed by FIG. 11 without the other data items.

Serret-Avila's FIG. 11 illustrates verifying the presence of a watermark in each of the data items submitted to the process of FIG. 11, but there is no verification in Serret-Avila that the number of data items submitted to the process of FIG. 11 corresponds to the number of watermarked data items in FIG. 10. The process of Serret-Avila's FIG. 11 is not aware of the number of data items in the original data set, and thus cannot be said to be able to verify that a given proportion of the data items are present. Further Serret-Avila's "more blocks?" block 1114 in FIG. 11 clearly shows that the process ends without taking defensive action at block

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1126 when there are no more blocks to process, regardless of whether the number of processed blocks matches the number of blocks that had been encoded in FIG. 10.


Because Serret-Avila does not teach a verification based on the presence of a select subset of data items, and does not teach a verification based on receipt of a given proportion of the data items, as specifically claimed in claims 1 and 18, the applicants respectfully request the Examiner's reconsideration of the rejection of claims 1-7, 18, and 20-23 under 35 U.S.C. 102(e) over Serret-Avila.

The Office action rejects claims 8-17 and 19 under 35 U.S.C. 103(a) over Serret-Avila and Oshima et al. (USP 6,266,299, hereinafter Oshima). The applicants respectfully traverse this rejection, based on the remarks above regarding Serret-Avila and claims 1 and 18, upon which these rejected claims depend.

Because Serret-Avila does not teach or suggest a verification based on the presence of a select subset of data items, and does not teach or suggest a verification based on receipt of a given proportion of the data items, as specifically claimed in claims 1 and 18, the applicants respectfully request the Examiner's reconsideration of the rejection of claims 8-17 and 19 under 35 U.S.C. 103(a) over Serret-Avila and Oshima.

In view of the foregoing, the applicant respectfully requests that the Examiner withdraw the rejections of record, allow all the pending claims, and find the application to be in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,


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